1 HONORABLE KYMBERLY EVANSON 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE 9 ADVAIYA SOLUTIONS, INC., 10 Case No. 2:23-cv-00685-KKE Plaintiff, 11 DECLARATION OF DHARMESH vs. **GODHA** 12 HARTFORD FIRE INSURANCE 13 COMPANY, LTD., 14 Defendants. 15 I, Dharmesh Godha, do hereby declare as follows: 16 1. I am over the age of 18, and make the following statements based on my 17 18 personal knowledge. If called as a witness, I could and would competently testify to 19 the following. 20 2. I am the President and CTO of plaintiff Advaiya Solutions, Inc. Based 21 in Bellevue, Washington, Advaiya is a technology consulting and implementation 22 company that delivers a variety of business solutions to its customers. 23 24 3. AA Asphalting, an Advaiya customer, hired Advaiya to implement 25 several cloud-based applications, all Microsoft products, to help with various business 26 Miller Nash LLP DECLARATION OF DHARMESH GODHA 605 5th Avenue South, Suite 900 2:23-cv-00685-RAJ - 1 Seattle, WA 98104

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functions, including human resources and recruiting, among others. To accomplish this, Advaiya created a secure on-line portal to a virtual server it created on Microsoft's Azure cloud platform, which hosted these applications. For a fee, AA Asphalting personnel could use the portal to access and run these applications.

- 4. Advaiya purchased access to these Microsoft products – both Azure and the applications used on it – through Ingram Micro Inc., who purchased them in turn from Microsoft. So when AA Asphalting accessed Azure through the portal Advaiya created, Microsoft invoiced Ingram, who invoiced Advaiya, who invoiced AA Asphalting.
- 5. To cover risks associated with its business activities, Advaiya purchased an "enterprise liability" policy, numbered 46 TE 0342080-21, from Hartford. Attached hereto as Exhibit 1 is a true and correct copy of that Policy.
- 6. Over a July weekend in 2022, hackers broke through Advaiya's security measures and gained access to AA Asphalting's Azure portal. Using the portal, the hackers made intensive use of Azure's cloud-based computing resources until the hack was detected the following Monday, July 11, 2022. This resulted in a dramatic increase in usage of those services. Because the fees that Microsoft charged Ingram were based on the amount of usage, this excess usage by the hackers generated roughly \$334,000 in additional fees for Ingram.
- 7. Advaiya's investigation revealed that AA Asphalting's account had been compromised in part due to Advaiya's failure to employ all security measures

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suggested by Microsoft's best practices guidelines. Attached hereto as Exhibit 2 is a true and correct copy of an incident report documenting these conclusions that was prepared days after the breach, and that Advaiya forwarded to Hartford. But Advaiya noted that Ingram was not free from fault, since Advaiya had placed, and Ingram had ignored, a \$30,000 limit on the amount of charges that could be incurred. This limit was less than ten percent of the fees Microsoft charged for what the hackers stole.

- 8. For its part, Microsoft insisted that Ingram pay fees for the resources used by the hackers. Ingram then insisted that Advaiya was liable for the fees Microsoft demanded. I directed our broker to convey these facts to Hartford. Advaiya's counsel likewise conveyed these facts to Hartford. Attached hereto as Exhibit 8 is a true and correct copy of an email (without attachments) from Advaiya's counsel to Hartford.
- 9. When Advaiya refused to pay, Ingram sent Advaiya an October 17, 2022 "past due notice." This was followed by a November 1, 2022 "FINAL DEMAND." Attached hereto as Exhibits 3 and 4 are true and correct copies of the "past due notice" and the "FINAL DEMAND."
- 10. Meanwhile, on July 22, 2022, Advaiya notified Hartford about the hacking and the dispute with Ingram. Hartford acknowledged Advaiya's July 22, 2022, notice of Ingram's claim four days later. Attached as Exhibit 5 is a true and correct copy of Hartford's acknowledgement.

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- 11. And on the same day it received Ingram's "Demand Letter," Advaiya forwarded a copy to Hartford, seeking coverage and a defense of Ingram's claim. Attached hereto as Exhibit 6 is a true and correct copy of the email that Advaiya's counsel sent to Hartford.
- 12. Since first receiving Ingram's demand, Advaiya has tried to engage Hartford in an effort to resolve Ingram's claim. But to this day, Hartford has never given its consent to resolve the claim on any terms. Because Advaiya cannot do so without Hartford's consent, Ingram's claim against Advaiya remains unresolved and outstanding.
- 13. On December 1, 2022, Advaiya finally received a letter setting forth Hartford's coverage position. Attached as Exhibit 7 is a true and correct copy of that letter, which I received.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

SIGNED in Bellevue WA, this 18th day of January, 2024.

1F9B433B50824FF Dharmesh Godha

DocuSigned By: Dharmesh Godha

Dharmesh Godha

1 Certificate of Service 2 I, Cara Lowrance, hereby declare under penalty of perjury under the laws of 3 the United States that on this 18th day of January, 2024, the foregoing document was 4 filed using the CM/ECF system which will send notice of the same to all parties, at 5 the addresses set forth below. 6 Matthew J. Sekits 7 Caitlyn Mathews BULLIVANT HOUSER BAILEY PC 8 925 Fourth Avenue, Ste. 3800 Seattle, WA 98104 9 Telephone: (206) 292-8930 Fax: (206) 386-5130 10 matthew.sekits@bullivant.com caitlyn.mathews@bullivant.com 11 SIGNED at Seattle, Washington this 18th day of January, 2024. 12 13 14 s/Cara Lowrance Cara Lowrance, Legal Assistant 15 Cara.Lowrance@millernash.com 16 17 18 19 20 21 22 23 24 25 26

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